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Attorneys for Defendant
JPMORGAN CHASE BANK

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KEMAH HENDERSON,
TAQUONNA LAMPKINS, and
CAROLYN SALAZAR individually
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

JPMORGAN CHASE BANK; and
DOES 1 through 50, inclusive,
Defendants.

Case No. 11-CV-03428-PSG (PLAx)

Hon. Philip S. Gutierrez

**DECLARATION OF CARRIE A.
GONELL IN SUPPORT OF
DEFENDANT JPMORGAN CHASE
BANK, N.A.'S OPPOSITION TO
PLAINTIFFS' REQUEST FOR
CLARIFICATION OF SCOPE OF
TRIAL**

DECLARATION OF CARRIE A. GONELL

DECLARATION OF CARRIE A. GONELL

I, Carrie A. Gonell, declare and state as follows:

1. I am a partner with the law firm of Morgan, Lewis & Bockius LLP (“Morgan Lewis”), counsel of record for Defendant JPMorgan Chase Bank, N.A., (“Defendant” or “Chase”). I am licensed to practice law in the State of California and am admitted to practice before this Court. I have personal knowledge of the facts set forth in this Declaration and I could and would testify competently thereto if called upon to do so. I submit this Declaration in support of Defendant JPMorgan Chase Bank, N.A.’s Opposition to Plaintiffs’ Request for Clarification of Scope of Trial.

2. Attached as **Exhibit A** is a true and correct copy of the Reporter’s Transcript of Proceedings for the Status Conference held before this Court in the above-captioned litigation on November 20, 2017.

3. Attached as **Exhibit B** is a true and correct copy of the Reporter’s Transcript of Proceedings for the Hearing held before this Court in the above-captioned litigation on October 20, 2017.

Executed on this 3rd day of January, 2018, at Costa Mesa, California.

/s/ Carrie A. Gonell
Carrie A. Gonell

EXHIBIT A

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE PHILIP S. GUTIERREZ, U.S. DISTRICT JUDGE

KEMAH HENDERSON, TAQUONNA LAMPKINS,)
AND CAROLYN SALAZAR INDIVIDUALLY)
AND ON BEHALF OF ALL OTHERS) CASE NO.
SIMILARLY SITUATED,) CV 11-3428
PLAINTIFFS,)
VS.)
JP MORGAN CHASE BANK; AND DOES 1)
THROUGH 50, INCLUSIVE,)
DEFENDANTS.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
MONDAY, NOVEMBER 20, 2017
3:01 P.M.
LOS ANGELES, CALIFORNIA

MAREA WOOLRICH, CSR 12698, CCRR
FEDERAL OFFICIAL COURT REPORTER
350 WEST FIRST STREET, SUITE 4311
LOS ANGELES, CALIFORNIA 90012
mareawoolrich@aol.com

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Reno, NV 89511

OZZELLO PRACTICE PC
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FOR THE DEFENDANTS:

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Costa Mesa, CA 92626

1 LOS ANGELES, CALIFORNIA; MONDAY, NOVEMBER 20, 2017

2 3:01 P.M.

3 -oOo-

4
5 THE CLERK: Calling Item 8, Civil 11-3428, Henderson
6 versus JP Morgan.

7 Counsel, please state your appearances.

8 MR. OZZELLO: Good afternoon, Your Honor.
9 Mark Ozzello representing the plaintiffs.

10 MS. GRANT: Good afternoon, Your Honor.
11 Melissa Grant for the plaintiffs.

12 MR. MCINERNEY: Kevin McInerney, Your Honor, for the
13 plaintiffs.

14 MS. GONELL: Good afternoon, Your Honor.
15 Carrie Gonell for the defendant.

16 THE COURT: Good afternoon.

17 I've read both the status statement and then the
18 defendant's response to the status statement. I think I've
19 been through these issues many times, and I have just one
20 question, and that is why shouldn't I just set this case for
21 trial? I think the time has come to set it for trial.

22 Anything from the plaintiff?

23 MR. MCINERNEY: Your Honor, speaking just for
24 Henderson and Lampkins, the first paragraph of their Complaint
25 at paragraph 1, line 3, said that the plaintiffs were bringing

1 it as a class action and as a representative action. Well,
2 it's clearly not a class action. I don't know given the way
3 the law has evolved whether it ever could have been a class
4 action.

5 But the Court has considered certainly our
6 representative trial plan, and for the reasons that you've
7 clearly stated, you feel that the trial plan won't work, won't
8 satisfy it. So it doesn't appear that we can go forward as a
9 representative action. And, you know, if the Court were to
10 consider going forward with individual trials, I respectfully,
11 Your Honor, would decline to go forward.

12 MS. GRANT: As would Plaintiff Salazar because there
13 is no -- we don't believe there is a right to an individual
14 PAGA seating claim.

15 THE COURT: I guess the question becomes then how
16 does the case get resolved? So if I just set it for trial, is
17 there a dismissal with prejudice, or is it a dismissal without
18 prejudice and -- Ms. Gonell? I think you probably have
19 collateral concerns.

20 MS. GONELL: I do, Your Honor. And I guess I would
21 start by saying there remains a representative action in this
22 case with respect to the penalties alleged by the four named
23 plaintiffs as to themselves. When we say representative
24 action, we mean people pursuing in the shoes of the state to
25 represent the state's interest. The state can and does

1 represent the interest of --

2 THE COURT: Right. I read the --

3 MS. GONELL: -- individuals or for people --

4 THE COURT: The fact that I said I would set it for
5 trial, I agree with what you are saying.

6 MS. GONELL: So it would be our position you could
7 set it for trial. We think it would be improper for you to
8 dismiss the claims in the case without prejudice because all
9 that would do is open up collateral litigation on the issues
10 Your Honor has already decided.

11 THE COURT: All right. The matter stands submitted.
12 Thank you.

13 (At 3:05 p.m. the proceedings adjourned.)
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CERTIFICATE OF OFFICIAL REPORTER

I, MAREA WOOLRICH, FEDERAL OFFICIAL REALTIME COURT
REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT PURSUANT
TO SECTION 753, TITLE 28, UNITED STATES CODE THAT THE FOREGOING
IS A TRUE AND CORRECT TRANSCRIPT OF THE STENOGRAPHICALLY
REPORTED PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER AND THAT
THE TRANSCRIPT PAGE FORMAT IS IN CONFORMANCE WITH THE
REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

DATED THIS 7TH DAY OF DECEMBER, 2017.

/S/ MAREA WOOLRICH

MAREA WOOLRICH, CSR NO. 12698, CCRR
FEDERAL OFFICIAL COURT REPORTER

EXHIBIT B

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE PHILIP S. GUTIERREZ, U.S. DISTRICT JUDGE

KEMAH HENDERSON, TAQUONNA LAMPKINS,)
AND CAROLYN SALAZAR INDIVIDUALLY)
AND ON BEHALF OF ALL OTHERS) CASE NO.
SIMILARLY SITUATED,) CV 11-3428
)
PLAINTIFFS,)
)
VS.)
)
JP MORGAN CHASE BANK; AND DOES 1)
THROUGH 50, INCLUSIVE,)
)
DEFENDANTS.)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
MONDAY, OCTOBER 16, 2017
1:35 P.M.
LOS ANGELES, CALIFORNIA

MAREA WOOLRICH, CSR 12698, CCRR
FEDERAL OFFICIAL COURT REPORTER
350 WEST FIRST STREET, SUITE 4311
LOS ANGELES, CALIFORNIA 90012
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APPEARANCES OF COUNSEL:

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FOR THE DEFENDANTS:

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BY: CARRIE A. GONELL
JOEL M. PURLES
600 Anton Boulevard, Suite 1800
Costa Mesa, CA 92626

1 LOS ANGELES, CALIFORNIA; MONDAY, OCTOBER 16, 2017

2 1:35 P.M.

3 -oOo-

4
5 THE CLERK: Calling Item 8, Civil 11-3428, Henderson
6 versus JP Morgan.

7 Counsel, please state your appearances.

8 MS. GRANT: Melissa Grant on behalf of the
9 plaintiff.

10 MR. MCINERNEY: Kevin McInerney, Your Honor, for the
11 plaintiffs.

12 MR. OZZELLO: Mark Ozzello for the plaintiff.

13 MS. GONELL: Carrie Gonell, Your Honor, for the
14 defendant.

15 MR. PURLES: Joel Purles for the defendant.

16 THE COURT: The last time we were here I've since
17 released the Court's tentative ruling regarding the trial plan.
18 And since then I've reviewed the supplemental briefs that were
19 filed after the tentative was released.

20 Frankly, the briefs have not changed my view of the
21 trial plan. But, Counsel, you maybe heard.

22 MS. GRANT: Good afternoon, Your Honor.

23 There's a couple of points that I specifically want
24 to address. One is we recognize that there are different
25 duties that the tellers and lead tellers do. They kind of fall

1 into three or four categories. That fact alone does not defeat
2 the manageability of a seating case because the issue, as the
3 *Kilby* case made very clear, is the tasks associated with a
4 given location and whether the common tasks associated with a
5 given location would reasonably permit seating in connection
6 with the frequency and duration of those tasks, in relation to
7 those tasks that have to be done while standing.

8 So the fact that there are tasks that have to be
9 done while standing or walking, for example, taking somebody to
10 the vault, does not mean that a teller or lead teller who is at
11 their workstation should not be permitted a seat while at the
12 workstation.

13 And we believe that the trial plan we submitted,
14 particularly the teller logs, will speak to the duration and
15 frequency of each task so that the Court will be able to
16 discern that the common tasks are those performed at the teller
17 workstations.

18 THE COURT: But don't tellers -- there's lead
19 tellers and there's line tellers. Aren't the tasks different
20 at each branch and sometimes they also assume other
21 responsibilities at each branch?

22 MS. GRANT: Yes. But that does not change the fact
23 that under the *Kilby* analysis, the fact the tasks that are
24 performed at the workstations -- and those are the only ones we
25 are talking about requiring a seat -- should not be provided a

1 seat.

2 In other words, let's say there's a teller at a bank
3 that is assigned the job of walking customers to the vault. We
4 are not saying that that teller should be provided a seat as
5 they are walking customers to the vault. But there are other
6 tellers at the same time who are sitting at the workstation
7 doing tasks that could be done while seated. That's what *Kilby*
8 stands for.

9 As a matter of fact, the quote is, "There's no
10 principled reason for denying an employee a seat when he spends
11 a substantial part of his workday at a single location
12 performing tasks that could reasonably be done while seated
13 merely because his job duties include other tasks that must be
14 done while standing."

15 So the issue is what are the common tasks sorted by
16 location, and can they be performed while seated without
17 interfering with the quality of performance of other tasks that
18 must be done while standing.

19 The other thing is in terms of the locations and the
20 configurations --

21 THE COURT: Right.

22 MS. GRANT: -- at this juncture we have not decided
23 how many of the locations we will actually prosecute for
24 violating the seating requirement.

25 THE COURT: How can I proceed to trial if I don't

1 know that fact?

2 MS. GRANT: Well, you would have to permit us some
3 merits discovery, because at this juncture we can represent to
4 you, as the government would, the state, if they were
5 prosecuting the case, that they have enough information to know
6 that many of the configurations of the banks would allow for
7 seating and that they need additional discovery --

8 THE COURT: Prior to certification, what was the
9 status of discovery?

10 MS. GRANT: Well, it was certification discovery.
11 It was not merits discovery. So it was whether or not there
12 were common predominant issues.

13 The *Kilby* case says --

14 THE COURT: Wasn't the analysis -- even in the
15 certification stage, wasn't the analysis --

16 MS. GRANT: I'm sorry, Your Honor. I didn't hear
17 you.

18 THE COURT: Let's assume for a moment it was simply
19 certification discovery. That involves some analysis of the
20 various locations, doesn't it? Why would additional discovery
21 be needed if -- it seems to me certification discovery would
22 have covered the various locations and we would be in a
23 position now to decide what locations are being prosecuted.

24 MS. GRANT: Well, in all candor, when we were
25 presenting the certification case, we were presenting the

1 predominance of the common issues. The fact that there may be
2 some other issues that aren't the predominant issues should not
3 have defeated certification.

4 And the thing about the location is, if we had
5 gotten too far into the merits of each configuration -- we did
6 go into the merits to some extent, and we determined that
7 they're primary configurations. There are three according to
8 the 30(b)(6) deponent.

9 Now, they have since taken over other banks and
10 built other new branches since. So we would need discovery
11 regarding those. But the 30(b)(6) person testified to the
12 primary three configurations which would allow four seats.

13 The other thing is the defendant seems to confuse
14 the standard of totality of the circumstances with a holistic
15 approach.

16 THE COURT: What's the difference?

17 MS. GRANT: Well, a holistic approach, which the
18 Supreme Court rejected, is the approach that says you look at
19 the entire picture of the job duties of the tellers. And if
20 any one of those duties needs to be done while standing, you
21 cannot provide a seat for other duties that could be done while
22 seated.

23 But that approach was expressly rejected. And in
24 lieu thereof, the Court said you look at -- you begin the
25 analysis --

1 THE COURT: Even if you are looking just for the
2 moment -- let's say we are just going to analyze the tellers'
3 seating arrangements. So you are just saying, when a customer
4 walks up to the teller line and wants to deposit money or take
5 money out or whatever transaction that's going to happen,
6 whether you provide a seat or not for that particular task,
7 what happens if that teller just did it ten minutes and the
8 rest of the day they were doing assorted other activities at
9 different locations? Doesn't the amount of other tasks impact
10 whether or not a seat can be provided under *Kilby*?

11 MS. GRANT: Well, as the *Kilby* case said and as the
12 companion *Brown* case said, the analysis is not based on
13 individual tellers or cashiers. The analysis is based on the
14 totality of the teller job.

15 THE COURT: Right. So if the totality of the job is
16 that this particular teller only works for ten minutes at the
17 teller line, doesn't that impact whether or not they have a
18 seat?

19 MS. GRANT: But that particular teller, if they are
20 there for ten minutes, why can't they sit for ten minutes if it
21 doesn't interfere when they are assigned the vault or when they
22 are told at the end of the day to check the ATM or even when
23 they are told to go to the printer and pick up a check?

24 It is whether or not the frequency and duration of
25 these tasks would render the quality of the performance

1 deficient. And there is no indication -- and we suggest to the
2 Court that we can present evidence that shows the quality of
3 the performance is not lessened by allowing them to sit even if
4 it's only ten minutes while they are doing the workstation
5 tasks.

6 Other banks all throughout California -- and we'll
7 present this evidence -- already provide seats for this
8 purpose. As a matter of fact, Chase's branches that they took
9 over from WaMu provided seats for this purpose. Some of our
10 own witnesses worked at the same branch when it was WaMu and
11 they had a seat. Chase took over and ripped out the seats.

12 THE COURT: I remember that because Mr. McInerney
13 reminded me at the very outset of the case that this case was
14 going to be really easy because JP Morgan had seats and then
15 Chase comes in and no seats. I remember that fact clearly when
16 Mr. McInerney told me it was going to be easy, an easy case.

17 MR. MCINERNEY: Never trust an Irishman.

18 MS. GRANT: Other than that, other than the fact
19 that there are different tasks which can be grouped into the
20 workstation tasks, the walking customers to the vault or
21 escorting them to another bank person or the ATM in the
22 drive-through, the majority of tasks, the common tasks, are at
23 the workstation.

24 And their own diagram of the workstation and all the
25 equipment that a workstation contains demonstrates that those

1 tasks can be done while seated. We believe that our trial plan
2 has presented that case to Your Honor.

3 I'd like to address any other questions that you
4 have.

5 THE COURT: Let me hear from the bank.

6 MS. GRANT: I do have one last question though. If
7 you stand by your tentative, we would ask for direction as to
8 how you wish us to proceed.

9 THE COURT: Okay. So let's have that discussion,
10 because I'll take the matter under submission and look at it
11 one more time after I hear from Ms. Gonell. But that's what I
12 want to address. Now what? Assuming -- if I accept the plan,
13 that's one thing. If I don't accept the plan, that's the
14 discussion I want to have. Now what are we going to do. All
15 right.

16 MS. GRANT: Thank you.

17 MS. GONELL: Your Honor, just two points briefly.

18 So counsel for the plaintiffs have raised this issue
19 of what happens if there's someone who does a particular task
20 that you later determine could be performed seated ten minutes
21 a day, don't they get a seat. Because they think they can
22 prove to you that the uniform tasks that are -- the quote
23 unquote "uniform tasks" are performed by tellers.

24 That's contrary to the findings you already made in
25 this case, and it's, frankly, contrary to the testimony of one

1 of their own lead witnesses who said what she did every day was
2 walk back and forth up the line all day long doing overrides
3 for other tellers.

4 Her experience may not be representative of the
5 experience of other people. But the problem we have in this
6 case is exactly the problem Your Honor's tentative latches onto
7 which is we don't have the answer to that question without
8 looking at the individual circumstances of each teller.

9 And there's a reason that in three briefs to
10 Your Honor on this trial plan in this case, three separate
11 briefs from claimants, there's been no mention at all of two of
12 the *Kilby* factors that are precisely raised by Your Honor's
13 question.

14 One is the frequency and duration of sitting tasks
15 versus standing tasks, and the other is the transition between
16 those. Now, if the hypothetical that plaintiffs were giving
17 you were accurate, then *Kilby* wouldn't be asking you to look at
18 the transition between those factors because it would be
19 irrelevant. If there were any sitting tasks, then the decision
20 would be that a seat should be provided.

21 But the California Supreme Court has expressly said
22 that's not the analysis, that you do have to look at both types
23 of tasks that are performed by the employee and the relative
24 duration of each.

25 So we would submit that for all of the reasons set

1 forth in Your Honor's tentative, that this case cannot proceed
2 on a representative basis.

3 I would raise just one other issue for the Court,
4 and that is with respect to our request regarding abandonment.
5 I just want to clarify something that's in the tentative.

6 There's a statement in the tentative that indicates
7 that we have made a request for you to deem abandoned the
8 claims during the abatement period.

9 THE COURT: Right.

10 MS. GONELL: But that's actually not the request.
11 It has to do with claims after the abatement period.

12 So what counsel for the plaintiffs have said here is
13 that they now agree, pursuant to multiple orders from
14 Your Honor, that claims during the abatement period are not
15 going to proceed in this action or presumably anywhere else.

16 So now the question is with respect to the claims
17 that are currently pending in this action after September of
18 2013, what is the status of those claims? And plaintiffs have
19 said we have no intention of proceeding with those claims that
20 are pending in this Court in this action because we are going
21 to proceed with those claims in our improperly filed state
22 court action Charles.

23 So the request to Your Honor is, look, they are not
24 permitted to split their claims in that way and decide that
25 they would prefer that claims pending before Your Honor get

1 adjudicated elsewhere in a case filed many years after this
2 one.

3 So I just wanted to clarify that for purposes of the
4 tentative, that the request that we made is not with respect to
5 the abatement period, but it's as to counsel for plaintiffs'
6 statements about the period following that to present.

7 THE COURT: Okay. So then the last question -- and
8 then I'll hear from plaintiffs' counsel and then I'll submit
9 it. Assume the tentative stands. Now what?

10 MS. GONELL: And I'm happy to have a discussion
11 about that. I think it would probably be fruitful for
12 plaintiff whose claims these are to be heard on that issue.

13 Our position would be, if counsel for the plaintiffs
14 are interested in litigating in this case the claims of their
15 individual representatives, we should set a short period for
16 discovery to do that and then proceed to trial.

17 THE COURT: But the funniest question though is, if
18 they're from different locations, isn't joinder potentially
19 improper?

20 MS. GONELL: Well, possibly. I mean, it is
21 possible --

22 THE COURT: How many named plaintiffs? If there are
23 four different locations, is joinder even appropriate?

24 MS. GONELL: And there's some question as to whether
25 or not joinder of the individual claims period is appropriate

1 and what would happen as to each individual case. But clearly
2 those cases are currently pending before Your Honor and should
3 be set for trial if counsel for plaintiffs are interested in
4 pursuing them.

5 THE COURT: Okay. Let me hear the last word from
6 the plaintiff.

7 MS. GRANT: Your Honor, in terms of what's next,
8 part of the problem here is -- and I'm going to have my
9 colleague address the issue of the abatement period. Part of
10 the problem is there's no such thing as an individual seating
11 claim. The California Supreme Court has made it patently clear
12 that it's a representative claim on behalf of the state. It's
13 the legal right and interest of the state. It's not individual
14 aggrieved employee's claims.

15 THE COURT: If the plan is rejected then, is the
16 case then ultimately dismissed?

17 MS. GRANT: Well, perhaps defendant wants to bring a
18 motion dismiss. I don't know. If Your Honor is going to stand
19 by its tentative, it presents a conundrum.

20 THE COURT: Right. That's why I want your help.

21 MS. GRANT: Well, perhaps we could invite defendant
22 to bring a motion to dismiss and proceed from there. Or you
23 permit us to do the merits discovery to continue to fill out
24 our trial plan.

25 THE COURT: Okay. And then on abatement?

1 MS. GRANT: You want to talk about abatement?

2 MR. MCINERNEY: If I may, Your Honor.

3 THE COURT: Sure.

4 MR. MCINERNEY: I believe, Your Honor, that the
5 Ninth Circuit has made it clear and it was actually inherent in
6 this Court's decision about that period of time where penalties
7 were abated by stipulation that we are in charge of the ship
8 as -- the PAGA ship. So we sort of determine who is on board.
9 And we are not pursuing the claims after that period when the
10 Ninth Circuit ruled.

11 THE COURT: So I'm confused. Are you conceding
12 abandonment?

13 MR. MCINERNEY: No.

14 THE COURT: Maybe I just misheard you. I'm not
15 necessarily understanding. So once the mandate comes down and
16 the abatement period is over, what's going to happen to the
17 claims that exist post abatement period?

18 MR. MCINERNEY: Those are covered by a state case --

19 THE COURT: All right. So you are not abandoning
20 them. You may pursue them in a state claim. Ms. Gonell is
21 going to stand up and tell me why you can't do it. Okay.
22 Everybody is on the same -- I got you. Thank you.

23 MS. GONELL: Your Honor, may I be heard for just a
24 second?

25 THE COURT: And then let's wrap up.

1 MS. GONELL: Just on one issue, Your Honor, with
2 respect to the individual PAGA claims, and this really ties
3 into exactly what Mr. McInerney was just expressing as well.

4 The cases that counsel for plaintiff is citing to
5 are in the arbitration context, and they deal with the question
6 of is there an individual claim that can be sent to arbitration
7 separate from representative claims if a representative claim
8 is appropriate.

9 That is a very different question than the one that
10 is currently before this Court with respect to the individual
11 claims. There's no question that the state can and often does
12 proceed with litigation on individual claims. They can
13 investigate a location and decide that they are pursuing the
14 claim of this person and not everyone in the location.

15 In fact, in my 20 years of practice, the most
16 frequent interactions I have with the agency are on individual
17 claims. They've done opinion letters in the seating context on
18 individual employee's claims. So while there may be
19 arbitration issues because it is the state's claim, as the
20 state, they certainly can and --

21 THE COURT: So your answer would be just to set it
22 for trial?

23 MS. GONELL: Yes.

24 THE COURT: Set the four cases -- the five cases for
25 trial?

1 MS. GONELL: Absolutely, Your Honor.

2 THE COURT: Okay. Thank you.

3 MS. GRANT: Your Honor, may I be heard on that point
4 just briefly?

5 THE COURT: Well, it's not going to be the last
6 word. I think what I'm probably going to do is after I issue
7 the order, I'll have both sides meet, and we'll set a plan.
8 I'm not going to set a plan today after the denial. I'll ask
9 you to meet and confer and then argue this point in writing to
10 me. Okay? All right. Thank you.

11 (At 1:54 p.m. the proceedings adjourned.)

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CERTIFICATE OF OFFICIAL REPORTER

I, MAREA WOOLRICH, FEDERAL OFFICIAL REALTIME COURT REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT PURSUANT TO SECTION 753, TITLE 28, UNITED STATES CODE THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE STENOGRAPHICALLY REPORTED PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER AND THAT THE TRANSCRIPT PAGE FORMAT IS IN CONFORMANCE WITH THE REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

DATED THIS 14TH DAY OF NOVEMBER, 2017.

/S/ MAREA WOOLRICH

MAREA WOOLRICH, CSR NO. 12698, CCRR
FEDERAL OFFICIAL COURT REPORTER